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HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

Our #299
Discharged
Yokohama, Japan
20 April 1948
6 Feb 48

UNITED STATES OF AMERICA VS MAKOTO UEDA

Review of the Staff Judge Advocate

1. The attached record of trial of Makoto Ueda at Yokohama, Japan, from 6 January 1948 to 21 January 1948 by a Military Commission appointed by paragraph 1, Special Orders No. 3, Headquarters Eighth Army, United States Army, dated 5 January 1948, having been referred to the Staff Judge Advocate, this review thereof is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Makoto Ueda	DATE OF CONFINEMENT: 30 November 1945
AGE: 31 years	DATE OF ARRAIGNMENT: 6 January 1948
RESIDENCE: Fukui Ken, Miu Gun, Tachimachi Mura, Todasu.	PLACE OF TRIAL: Yokohama, Japan
CAPITAL STATUS: Married	PERIOD OF TRIAL: 6 January 1948 to 21 January 1948
RELATIVES: Three brothers, one sister and father-in-law.	DATE OF SENTENCE: 21 January 1948
EDUCATION: Eight years	SENTENCE: C.M. for one year and six months.
OCCUPATION: Cabinet maker	CLEMENCY RECOMMENDED BY COMMISSION: No.
MILITARY CAREER: Served about three years and four months in the Imperial Japanese Army. Discharged 1 April 1942.	

2. Synopsis of Charge, Pleas, Findings, Legal Sufficiency and Sentence:

<u>Charge and Specifications?</u>	<u>Pleas</u>	<u>Findings</u>	<u>Legally Sustained</u>
Charge: Accused at the times and places set forth in the specifications, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: On or about 15 May 1945, accused did willfully and unlawfully mistreat American P.W.'s, by beating them with a belt, club and other weapons, and by otherwise abusing them.	NG	G	Yes
Sp 2: On or about 15 May 1945, accused did willfully and unlawfully mistreat approximately three hundred and fifty unidentified American P.W.'s by lining them up in a column and forcing them to kneel on the ground, in which position they were compelled to stay for approximately five hours, and by otherwise abusing them.	NG	NG	---
Sp 3: In or about March 1945, accused did willfully and unlawfully mistreat American P.W.'s, by beating them with a club and immersing the P.W.'s Fox and Hernandez in a cold water reservoir and otherwise abusing them.	NG	NG	---

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Sp 4: On or about 16 April 1945, accused NG
did willfully and unlawfully mistreat
American PW's, by beating them with ropes,
clubs and fists, and by otherwise abusing
them.

Sp 5: On or about 16 April 1945, accused NG
did willfully and unlawfully mistreat
approximately forty unidentified American
PW's, by forcing them to kneel on the
ground for about eight hours and by
otherwise abusing them.

Sp 6: On or about 10 February 1945, and NG
at various times thereafter until 4 August
1945, accused did willfully and unlawfully
mistreat Master Sergeant Harry L. Crayton,
an American PW, by beating him with a club
into unconsciousness, and by otherwise
abusing him.

Sp 7: In May 1945, accused did willfully NG
and unlawfully mistreat Master Sergeant
Harry L. Crayton, an American PW and
other unidentified American PW's by
forcing said PW's to run in formation
for a distance of about two miles, by
beating some of said PW's with clubs, and
by otherwise abusing them.

Sp 8: Between 10 March 1944 and 4 August NG
1945, accused did willfully mistreat
numerous other Allied PW's by beating
and otherwise abusing them.

3. Summary of the Evidence:

a. For the Prosecution:

As to Specification 1: The accused was a civilian guard at Hirohata Prisoner of War Camp in Japan. About the middle of May 1945 the accused, with other Japanese, beat and abused about sixteen American prisoners who had been accused of stealing rice. They were lined up in the compound with their hands raised over their heads. Each was slapped across the face about twenty-five times with a large doubled up Japanese belt. Then they were struck across the upper part of the legs and hips with a club a little longer than a full sized baseball bat and somewhat larger in diameter. The bats were swung with full force. PW Chuck stated that the first six blows were very painful, but after that they were too numb to feel much pain. PW Thompson had a "badly injured spine" and was hospitalized. The beating with ropes, clubs, belts and sticks lasted from two to four hours. The prisoners included Harwell, Ligon, "hitman", Darnell, Orr, Chuck, "Budensky", Garrison, Thompson and others who are referred to as Molnar, Grady, Elkins, "aller, Moore, Rucker, Nidy, Lundgren, McAllister, Smith, Kisner and Pierce (R. 19, Ex. 1, 2, 3, 4).

As to Specifications 2 to 8 inclusive: Not Guilty.

b. For the Defense:

The accused after being warned as to his rights as a witness, took the witness stand and testified under oath in his own behalf (R. 149). He was a civilian guard (gunzoku) at the Hirohata Branch POW Camp from 10 December 1944 until 4 August 1945 (R. 149, 151). He heard about the incident relative to the theft of rice from the camp commandant on the morning following. Accused was

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not in camp on the day the incident occurred (R. 152, 153). He was absent about one week. He never struck any prisoners at this camp (R. 153, 159, 161). He once refused to beat a prisoner when Corporal Ishida ordered him to do so (R. 158). In a prepared written statement the accused told the Commission that he had received private punishment by being beaten on many occasions and vowed that he would never inflict private punishment on anyone. He has never struck a Japanese soldier or a prisoner of war. He had many friends among the prisoners and performed many favors for them (R. 159). On cross-examination he admitted he was in the camp from the first to the twenty-fourth of May 1945 (R. 163).

Sakae Tahara was an interpreter at the camp, and although he received complaints about other Japanese and saw them mistreat prisoners, he never had a complaint about the accused, nor did he ever see him strike any prisoner at the Hirohata Camp (R. 22, Ex. A).

Hideo Naruwa stated that he was commander of the Hirohata Camp from 22 July 1944 to 6 May 1945 when the witness left. The accused came to the camp in January or February 1945, possibly before the new year, and served as guard of the prisoners at the work site (R. 28, 35, 36, 37). The incident concerning the theft of rice occurred near the end of February or early in March 1945 (R. 29, 36). He did not think that he saw the accused on the day the rice was stolen (R. 31, 37). No one complained to him about the accused. He did not recall that the accused ever had trouble with the prisoners. He never heard that the accused ever struck or punished a prisoner (R. 32). The accused was a kind and obedient man and was loved by all his friends (R. 32). The witness never heard that prisoners were beaten for the theft of the rice (R. 39).

Kokichi Muto testified that he commanded the Hirohata Camp from 5 May 1945 to the end of the war (R. 45). There was no incident involving the theft of a large amount of rice from a ship during that time (R. 46). He never received a complaint from the prisoners about the accused. Umeda was very quiet and "possessed a very warm soul" (R. 47).

Hisajiro Takahama testified he was a company guard at the Hirohata Camp but did not see the accused in camp the day of the rice theft. He could not recall if the accused was in camp that night or not (R. 61, 67). He did not see him at supper (R. 77).

The accused secured extra food for the prisoners (R. 61). The witness never heard of or saw the accused involved in any "incidents" with the prisoners (R. 62).

Toraji Hamada displayed his physical features as they compare with those of the accused (R. 81-85).

Shinichi Motoyashiki testified he never saw the accused carry a club similar to the ones carried by the other guards (R. 97).

Akiyoshi Tsujino testified that the accused played games with the prisoners. He was obedient and "very warm hearted and faithful to his duties" (R. 116).

Toshio Miyamae displayed his physical features as compared with those of the accused (R. 119). He never heard of complaints about the accused (Ex. B).

Kitaro Ishida remembered the rice theft incident in January 1945 (R. 120). The accused worked every other day (R. 122). He never saw the accused strike a prisoner (R. 123). The accused was quiet and diligent. He had many friends among the prisoners. He played games with them (R. 124). Sixteen men were punished in connection with the rice incident (R. 126).

The statements of prisoners Stigge, Monday and Konichy blame certain named Japanese for the beatings. The accused is not mentioned (Ex. C, D, E).

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Yohichi Uchinaka testified and submitted a statement describing his employment at the camp as a company interpreter. He had never seen the accused strike a prisoner. He never had heard that the accused had mistreated any prisoners, nor had the prisoners ever complained about him. He was unable to identify the photograph of the accused (R. 130, Ex. F).

Torozo Yasuda also submitted his statement to the effect that he worked at the camp as a company guard, but never saw or heard that the accused struck a prisoner (R. 134, Ex. G).

Kasuyoshi Matsumoto was a company guard but did not know anything bad about the accused (R. 135, Ex. H). He did not remember seeing the accused the day of the rice theft incident (R. 137, 140, Ex. H).

Seiuemon Umeda submitted a statement to the effect that the accused was home on the 13th of April 1945 and was in Kyoto on the 14th of April (Ex. I).

4. Opinion:

The Commission was constituted by proper authority and had jurisdiction over the accused and of the offenses charged. There is no evidence that the accused was not sane at the time of the commission of the alleged acts or at the time of the trial. The accused was given a fair trial, was ably defended, cooperated in his own defense, produced witnesses on his own behalf, and took the witness stand in his own defense.

No request for modification of the findings or sentence has been submitted on behalf of the accused.

No ruling of the Commission is deemed to have effected adversely the substantial rights of the accused.

The record is legally sufficient to support the findings of the Commission.

5. Recommendations:

No request for clemency has been submitted. The accused was found guilty of one specification involving a severe and brutal beating of approximately sixteen prisoners of war. The sentence of one year and six months is legal but is considered inadequate. It is recommended that the findings of the Commission be approved. It is further recommended that owing to the length of time the accused has been in confinement prior to the date of sentence, the unserved portion of the confinement awarded be remitted.

6. Action:

A form of action designed to carry this recommendation into effect is attached hereto.

CYRIL D. HILL
Lt. Colonel, CAC
Asst. Staff Judge Advocate

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I concur. Compelling proof of an allegation charging war crime responsibility for severe and brutal beatings such as those established in this case demands a sentence greatly in excess of eighteen months. Nevertheless, pre-trial confinement is in no way to be considered as confinement served in expiation for offenses of which an accused is later convicted. Therefore a reviewing authority should consider such restraint entirely separately from that adjudged by a commission. The blackest rogue is entitled to an early trial under the enlightened rules of civilized nations. When trials are postponed, as this one was, because of the great number of those awaiting justice, fair allowances should be made for undue pre-trial confinement regardless of the inadequacy of a sentence. This is all the more true since commissions are instructed that pre-trial confinement is not to be considered in adjudging sentences.

ALLAN R. BROWNE
Lt Colonel JAGD
Army Judge Advocate

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